



## Joint Public Notice

U.S. Army Corps of Engineers, Norfolk District  
Virginia Department of Environmental Quality

June 21, 2005

### **Existing Federal Programs to Restore Wetlands and How Such Areas Will Be Considered in the Review of Permit Applications**

Landowners can enter into an agreement with the Natural Resources Conservation Service (NRCS) under the Conservation Reserve Program or the U.S. Fish and Wildlife Service (FWS) to receive cost share and technical support to voluntarily restore wetlands and streams. Such programs were established by Congress to be a source of net gain in aquatic resources. During the duration of the program landowner agreement (generally 5-33 years for NRCS programs and 10-25 years for FWS programs), the site cannot be used for mitigation credit. However, the terms of the program agreement allow the landowner to terminate the agreement if he/she reimburses the respective Service for their cost of the project.

According to the Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks published in the Federal Register on November 28, 1995 by the Corps of Engineers (Corps), Environmental Protection Agency, the Natural Resources Conservation Service, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service, wetlands restored through the Conservation Reserve Program or similar programs cannot be used to generate credits from a mitigation bank (See Paragraph II. Policy, Considerations, B. Planning Considerations, 2. Site Selection).

In accordance with the Federal Mitigation Banking Guidance, Federally-funded wetland mitigation projects such as described above cannot be used to generate credits within a mitigation bank. In addition, we will not allow such restored habitats to be used as restoration credit as part of a site-specific mitigation plan. However, we may consider such wetlands for preservation credit. In all cases, the use of such restored wetlands as preservation credit will be at a minimum of a 10:1 ratio and cannot be used to reduce the restoration or creation component of the compensatory mitigation to less than a 1:1 ratio.

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